**UNITED STATES DISTRICT COURT**
**DISTRICT OF COLUMBIA**

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| **UNITED STATES OF AMERICA,**<br>U.S. Department of Justice<br>Antitrust Division<br>325 Seventh Street, N.W.<br>Washington, D.C. 20530<br>*Plaintiff,* | ) | |
| **v.** | ) | Civil Action No. **97-0248**<br>Filed: **2/5/97** |
| **SIGNATURE FLIGHT SUPPORT CORPORATION,**<br>Signature Plaza<br>201 South Orange Avenue<br>Orlando, FL 32801<br>*Defendant.* | ) | **Judge Royce Lamberth** |

## COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to prevent the proposed acquisition by Signature Flight Support Corporation ("Signature") of the competing flight support operation of International Aviation Palm Beach, Inc. ("International Aviation") at Palm Beach International airport ("PBI"), located in West Palm Beach, Florida.

## I.
## NATURE OF THE ACTION

1. Fixed base operators ("FBOs") provide flight support services -- including fueling, ramp and hangar rentals, office space rentals and other services -- to general aviation customers from facilities at commercial airports. General aviation customers include charter,

private and corporate aircraft operators. Currently, Signature and International Aviation are two of the three FBOs competing at PBI.

2. Signature and International Aviation compete head-to-head on price and quality of services to general aviation customers. The acquisition would eliminate this competition, reducing the number of competitors from three to two, creating an FBO duopoly at PBI. This acquisition would give Signature the market power to raise prices and lower the quality of services to PBI general aviation customers. The merger would also make coordinated behavior between Signature and Jet Aviation (the other remaining FBO) easier, resulting in higher prices. Accordingly, the proposed acquisition is likely to lessen competition substantially in the market for FBO services at PBI in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

## II.
## JURISDICTION, VENUE AND DEFENDANT

3. This action is filed pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain the violation by the defendant, as hereinafter alleged, of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

4. Signature is a wholly owned subsidiary of BBA Group PLC, a British holding company. Signature is a Delaware corporation with its principal place of business in Orlando, Florida. Signature consents to jurisdiction in the District of Columbia for the purposes of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

5. Signature is engaged in interstate commerce and in activities substantially affecting interstate commerce. Signature provides FBO services to aircraft coming to PBI from throughout the United States and overseas.

6. This Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to 15 U.S.C. §§ 1331 and 1337. Venue is proper pursuant to 28 U.S.C. § 1391(c).

## III.
## THE TRANSACTION

7. Signature proposes to acquire the stock and assets of IAS Holdings, International Aviation and International Aviation Teterboro, Inc. for approximately $18 million. IAS Holdings, through its subsidiaries International Aviation and International Aviation Teterboro, Inc., operates FBOs at Westchester County (NY) airport, Teterboro (NJ) airport and PBI airport in West Palm Beach, Florida.

## IV.
## TRADE AND COMMERCE

### The Relevant Market

8. FBO services include the sale of jet aviation ("Jet A") fuel and aviation gasoline ("avgas"), and ramp, hangar and office rental. FBOs do not charge separately for many services offered to general aviation customers, such as use of customer and pilot lounges, baggage handling, and flight planning support. FBOs recover the costs for these services in the price that

they charge for fuel. There are some services for which FBOs do charge separately, such as hangar rental, office space rental, ramp parking fees, catering, cleaning the aircraft, arranging ground transportation, and maintenance on the aircraft. General aviation customers generally buy fuel from the same FBO from which they obtain other services.

9. The largest source of revenue for an FBO is its fuel revenues. FBOs sell Jet A fuel for jet aircraft, turboprops and helicopters, and avgas for smaller, piston driven planes. In 1995, Jet A fuel sales at PBI were approximately $15 million; avgas sales were less than $1 million. Revenues for hangar rentals and parking fees at PBI in 1995 were approximately $1 million.

10. The provision of FBO services to general aviation customers at PBI is a relevant market (i.e., a line of commerce and a section of the country) under Section 7 of the Clayton Act. General aviation customers cannot obtain fuel, hangar, ramp and other services offered at PBI except through an FBO authorized to sell such products and services by the local airport authority. Thus, general aviation customers have no alternatives to FBOs for these products and services when they land at PBI.

11. FBOs at other airports would not provide economically practical alternatives for general aviation customers who currently use PBI. Although there are a number of smaller airports in the region, they are not economically viable substitutes for PBI general aviation customers. General aviation customers use PBI because of its location, convenience and

facilities. General aviation customers have chosen PBI because of its proximity to their ultimate destination (whether their residence, business or other place); using a different airport would significantly increase their driving time. PBI has facilities that other airports lack: longer runways, precision instrument landing capability, a 24-hour landing tower, and a U.S. Customs facility. Because of these and other factors, there are not enough general aviation customers who have selected PBI as their airport who would switch to other airports to prevent anticompetitive price increases for fuel and other services at PBI resulting from this acquisition.

12. In addition, post-acquisition price increases at PBI for fuel would not be prevented by efforts of general aviation customers to decrease fuel purchases at PBI by increasing fuel purchases at airports outside the region. Carrying more fuel than is necessary to reach the next destination is called "tankering." Most pilots tanker to some extent in response to fuel prices, but PBI general aviation customers will not change their current tankering practices enough to prevent a post-merger price increase at PBI.

## **Competition and Entry**

13. The market for FBO services at PBI is already highly concentrated, with only three providers. For example, in 1995, International Aviation had roughly 40% of the sales of Jet A fuel, Signature had about 25% and Jet Aviation accounted for the remaining 35%.

14. The market for FBO services at PBI would become a duopoly if Signature acquires International Aviation's FBO facility at PBI. Using a measure of market concentration called the "HHI" (defined and explained in Appendix A), the transaction will increase the HHI in the market for FBO services at PBI by 2000 points to a post-acquisition level of 5450.

15. The elimination of competition between Signature and International Aviation resulting from this transaction would reduce competition substantially in the market for the provision of FBO services to general aviation customers at PBI. Because Signature and International Aviation's facilities are the next best competitive alternatives for a substantial number of general aviation customers at PBI, the existing competition between these FBOs limits the ability of each to raise prices for fuel and other FBO services. This merger would eliminate the price constraining impact each has on the other. In addition, the proposed acquisition will make coordinated interaction easier between Signature and Jet Aviation, resulting in higher prices at PBI.

16. New entry will not prevent a post-merger price increase. The financial opportunity that would be created by the anticompetitive impact of this merger would not be great enough to induce a new entrant to make the investments needed to enter the FBO business at PBI. There are significant sunk costs involved in building an FBO at PBI, including the cost of relocating the airport's antennae complex from the only site currently suitable for development into a new FBO, and the cost of building needed hangar and ramp facilities. The revenue a new FBO operation would have to generate to achieve an acceptable rate of return on

such an investment exceeds the revenues a new entrant would earn. In particular, a new entrant would not achieve a large enough share of market revenues to be able to cover the fixed (including sunk) costs of entry and be profitable at pre-merger prices. Therefore, new FBO entry on a scale sufficient to prevent a post-merger price increase would not occur at PBI.

## V.
## VIOLATION ALLEGED

17. Unless restrained, Signature's proposed acquisition of International Aviation's FBO at PBI is likely to substantially lessen competition and restrain trade unreasonably in the market for FBO services at PBI in violation of Section 7 of the Clayton Act, in the following ways:

a. Actual competition between Signature and International in the market for FBO services at PBI will be eliminated;

b. Concentration in the market for FBO services at PBI will increase significantly;

c. Competition generally in the market for FBO services at PBI will be substantially lessened;

d. Prices for fuel and other FBO services sold to general aviation customers at PBI will increase.

## IV.
## REQUEST FOR RELIEF

The United States requests (a) adjudication that Signature's proposed acquisition of International Aviation's FBO at PBI would violate Section 7 of theClayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Dated: February 5, 1997


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## APPENDIX A
## <u>DEFINITION OF "HHI"</u>

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approached zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.